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Paper No. 9
RLS/kes

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **BuyPatents.com, LLC**

Serial No. 75/**726,623**

Thomas W. Baumgarten, Jr. for **BuyPatents.com, LLC**.

Carol Spils, Trademark Examining Attorney, Law Office 101
(Jerry Price, Managing Attorney).

Before **Simms**, **Walters** and **Holtzman**, Administrative
Trademark Judges.

Opinion by **Simms**, Administrative Trademark Judge:

BuyPatents.com, LLC (applicant), a Michigan corporation, has appealed from the final refusal of the Trademark Examining Attorney to register the asserted mark BUYPATENTS.COM for brokerage services in the field of intellectual property, namely promotion of the sale of patents on behalf of third parties.¹ The Examining Attorney has refused registration under Section 2(e)(1) of the Act,

¹ Application Serial No. 75/726,623, filed June 11, 1999, based upon applicant's allegation of a bona fide intention to use the mark in commerce.

15 USC §1052(e)(1), arguing that applicant's mark is merely descriptive of a purpose, function, characteristic or feature of applicant's services.² Applicant and the Examining Attorney have submitted briefs but no oral hearing was requested.

We affirm.

Applicant indicates that it is a broker, rather than a buyer or seller, of the patents of others. According to applicant, the patents of applicant's clients are categorized and listed along with offering details for review by prospective purchasers via the Internet or other Web-based interface. Applicant argues that its mark is suggestive because imagination is needed to reach the conclusion that applicant's services are the promotion and sale of patents of *third parties and not of applicant*. Applicant contends that its mark does not forthwith convey and immediately tell customers that applicant's services are the offering of the sale of patents of others but only conveys information indirectly and vaguely. Also, applicant argues that, while the individual elements of its mark may be descriptive or even generic when used to

² In connection with her refusal, the Examining Attorney made of record copies of excerpts of stories from the Nexis database about individuals and companies buying or seeking to buy the patents of others.

explain patent "buying" services, these words together are not merely descriptive of its services. Applicant also asks us to resolve any doubts in its favor.

A mark is merely descriptive if, as used in connection with applicant's goods or services, it describes, that is, immediately conveys information about an ingredient, quality, characteristic or feature of applicant's goods or services, or if it directly conveys information regarding the nature, function, purpose or use of applicant's goods or services. See *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ2d 215 (CCPA 1978); and *In re Eden Foods Inc.*, 24 USPQ2d 1757 (TTAB 1992). Of course, the issue of mere descriptiveness should not be determined in a vacuum, but rather this issue is analyzed as the mark is used on or in connection with applicant's goods or services. *In re Abcor Development Corp.*, *supra*.

We agree with the Examining Attorney that applicant's mark merely describes a significant purpose, function or feature of applicant's brokerage services. There is no question that, by use of applicant's services, one may seek to buy the patent of another. That is to say, applicant's services are for the purpose of allowing others to buy patents of applicant's clients. The asserted mark immediately informs users of applicant's services that, by

using applicant's services, one may seek to buy a patent of another. The element ".COM," the so-called top level domain name, is merely the address element used to access online computer information and merely indicates that applicant is a commercial entity. Applicant's mark as a whole tells users that they may access applicant's services via the Internet to buy patents. In other words, the mark immediately informs users that applicant provides online services for the sale of patents.

Decision: The refusal of registration is affirmed.